



May 22, 2012

House Natural Resources, Tourism and Outdoor Recreation Committee
Lansing, MI 48912

Re: SB 1090 – Cleanup of groundwater contamination entering surface water

Dear Representatives:

The Michigan Environmental Council supports efforts to speed the cleanup of contaminated properties across the state. In 1995, changes to the law required responsible parties to “diligently pursue” cleanup activities. Unfortunately, sites have languished and progress has remained slow.

I served on both the Office of Regulatory Reform Advisory Council on Environmental Regulation and also attended the Collaborative Steering Initiative (CSI) where the language before you originated. The topics covered in SB 1090 are extremely complex, thus the Michigan Environmental Council urges the committee to move slowly and deliberatively in its review of the legislation to allow meaningful input not only the parties responsible for the cleanups, but the public that will have to live in the areas with the contamination that may be allowed to remain in place.

The Michigan Environmental Council believes the legislation has provisions which can help guide the state in its decision making, but is also seriously flawed in other ways. We think the following issues need to be addressed:

- 1) **State Involvement in Complex Sites** - The state needs to be involved and “approve” the cleanup plan in complex cases where the exercise of significant discretion will determine the level of protection of public health. In those cases, a cleanup plan acts the same as a permit to discharge toxic chemicals into the waters of the state and state approval should be required.

The failure to require government oversight is a significant change in the role of government. It basically says that “protecting public health” is a function we are willing to delegate to the responsible party that has a financial incentive to minimize costs.

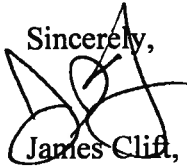
- 2) **Innovated methods for modeling** – The introduced bill allows “innovative” modeling that has not been generally recognized within the field of study (page 9, line 25). This places the state in the position of approving or allowing cleanups that could prove to be incorrect and is the equivalent of using Michigan families as guinea pigs and potentially exposing them to excessive levels of hazardous

substances. The use of modeling as opposed to actual field measurements already introduces a level of uncertainty into the process. The use of modeling that is not generally recognized in the field should not be allowed.

- 3) **Elimination of public input** - The bill eliminates a public hearing not required when mixing zones allows hazardous substances to be placed into surface water sources and simply diluted instead of remediated (page 11, line 5). The bill also allows a party to claim a cleanup is technical impracticability without input from the public that would be potentially exposed (page 13, line 3).

Michigan Environmental Council is willing to work with parties to clarify these provisions. However, until that time we are opposed to passage of the legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "James Clift", is written over the printed name.

James Clift, Policy Director

1) State Involvement in Complex Sites –

Amend page 6, line 23 after “(1)” by striking, “(B), (C), (D), (E) OR (F)”.

2) Innovated methods for modeling –

Suggested amendment – Amend page 9, line 25, after “PLUMES” by striking “OR IS AN INNOVATIVE METHOD THAT IS SCIENTIFICALLY JUSTIFIABLE”.

3) Elimination of public input –

- a. Amend page 10, after line 25, by inserting, “(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, A RESPONSE ACTIVITY PLAN THAT INCLUDES A MIXING ZONE RELATING TO GROUNDWATER VENTING TO SURFACE WATER IS SUBJECT TO A 30 DAY PUBLIC COMMENT PERIOD.”.
- b. Amend page 13, line 11, after “DENIAL” by inserting, “NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, A REQUEST FOR A TECHNICAL IMPRACTICABILITY WAIVER RELATING TO GROUNDWATER VENTING TO SURFACE WATER IS SUBJECT TO A 30 DAY PUBLIC COMMENT PERIOD.”.

